

E-309, 124/SA-89-778 APPROVING STIPULATION WITH TWO CLARIFICATIONS AND  
RESCINDING PREVIOUS ORDER

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of the Application of the City of Shakopee to Extend its Assigned Service Area into the Area Presently Served by the Minnesota Valley Electric Cooperative

ISSUE DATE: March 27, 1990

DOCKET NO. E-309, 124/SA-89-778

ORDER APPROVING STIPULATION  
WITH TWO CLARIFICATIONS AND  
RESCINDING PREVIOUS ORDER

PROCEDURAL HISTORY

On September 8, 1989, the City of Shakopee (the City) filed a petition pursuant to Minn. Stat. §216B.44 (1988) to extend its service area to include all territory within the city limits currently served by Minnesota Valley Electric Cooperative (MVEC or the Co-op). In its petition, the City also requested the Commission to determine the amount of compensation to be paid the Co-op for the City's acquisition of Co-op facilities. Finally, the City requested the Commission to decide interim service rights pending final determination of compensation.

On December 6, 1989, the Commission issued its NOTICE AND ORDER FOR HEARING in this matter. That Order referred the determination of compensation to a contested case proceeding.

Minn. Stat. §216B.44 provides that until a final Commission determination, the electric utility being displaced by a municipal utility may extend service to additional points of delivery within the annexed area, unless the Commission determines that the extension is not in the best interest of the public. One factor which the Commission must address in determining public interest is the unnecessary duplication of facilities. In its September 8 petition, the City of Shakopee stated that an unnecessary duplication of facilities would ensue if MVEC were allowed to extend service in the annexed area pending final Commission determination. The Commission responded to this allegation with its December 6, 1989, ORDER REQUIRING ADDITIONAL FILINGS in this docket. That Order required the parties to file affidavits stating facts supporting or opposing the claim of unnecessary duplication.

On February 16, 1990, the City and MVEC filed a Stipulation regarding interim service rights of the parties. Under the terms of the Stipulation, the City and the Co-op agreed that MVEC would provide electric service to all present and future customers within the assigned service territory of MVEC and the corporate boundaries of the City, pending final determination of compensation by the Commission. The Stipulation further provided that, during the pendency of the proceeding, if a major electric customer located in an area adjacent to and within reasonable proximity of the

existing electric distribution lines of the City required retail electric service, the City would have a right to petition the Commission for the right to service the new customer. The Stipulation provided a definition of "major electric customer."

On February 21, 1990, the Commission issued a Notice allowing parties 13 days to comment on the Stipulation.

On March 5, 1990, the Department of Public Service (the Department) filed comments generally supporting the parties' Stipulation. The Department recommended that approval of the Stipulation be contingent upon the addition of two clarifications.

No other parties filed comments.

The matter came before the Commission on March 13, 1990.

### FINDINGS AND CONCLUSIONS

The Commission agrees with the Department's recommendation that the Stipulation of the City of Shakopee and MVEC should be approved. The parties have made a good-faith effort to resolve issues which might otherwise require extensive effort and time. The resolution adopted by the City and the Co-op is in conformity with the provisions of Minn. Stat. §216B.44 (1988). The Stipulation is consistent with the public interest and should be approved.

The Commission agrees with the Department that the Stipulation must be clarified on two points before it is approved. First, there must be a clarification of the City's right to petition for service rights to a new major electric customer. Minn. Stat. §216B.44 (1988) provides that the displaced utility will serve existing and new customers until Commission determination in favor of the petitioning municipal utility. In this case, MVEC is entitled to serve a new major electric customer if that customer requires service before the Commission acts on a City petition for interim service. This point must be clarified in the Stipulation.

The second necessary clarification is of the definition of "major electric customer." The Stipulation defines such a customer as one whose projected peak demand is or will be 1,000 kilowatts or greater as determined by the parties in good faith, applying standard utility practices. The Commission finds that standard utility practices which define a peak demand of 1,000 kilowatts by a customer means that the customer uses 1,000 kilowatts in a period of 15 minutes or less. This point must be clarified in the Stipulation.

The Commission notes that both the City and MVEC have indicated their willingness to include the two aforementioned clarifications in the Stipulation.

Because the Commission is adopting the parties' Stipulation with two modifications, it will no longer be necessary for MVEC and the City to provide the affidavits required under the Commission's December 6 ORDER REQUIRING FURTHER FILINGS. The parties have resolved issues of interim service in the Stipulation, and thus no longer need to present facts regarding possible duplication of facilities. The Commission will therefore rescind its December 6, 1989 ORDER

REQUIRING FURTHER FILINGS.

ORDER

1. The Commission hereby accepts, adopts, and incorporates herein by reference the attached STIPULATION OF CITY OF SHAKOPEE AND MINNESOTA VALLEY ELECTRIC COOPERATIVE, with the following two clarifications:
  - a. Minnesota Valley Electric Cooperative is entitled to serve a new major electric customer if that customer requires service before the Commission acts on a City petition for interim service.
  - b. The Stipulation shall include a definition of "standard utility practices" as they apply to measuring peak demand, as outlined above.
2. The Commission hereby rescinds its ORDER REQUIRING ADDITIONAL FILINGS, which was issued in this docket on December 6, 1989.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson  
Acting Executive Secretary

(S E A L)